


# 25th Anniversary Symposium

## Building an Effective Federal Disability Program for the Retention and Advancement of Individuals with Disabilities




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# Overview




- Rehabilitation Act
- Executive Orders
- Best Practices
  - Hiring
  - Retention
  - Advancement
- Barrier Analysis
- Questions and Answers






# Rehabilitation Act




**The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability by the federal government, federal contractors and by recipients of federal financial assistance.**

- Protects persons with disabilities against discrimination;
- Requires that employers provide reasonable accommodation(s) to qualified applicants and employees with disabilities, where needed;
- Requires federal agencies to establish "*affirmative action*" programs for the hiring, advancement and retention of persons with disabilities;
- Prohibits employers from making improper disability-related inquiries or requiring improper medical examinations;
- Requires that employers keep the medical information of all employees confidential;
- Requires that employers comply with anti-harassment standards; and
- Prohibits retaliation by employers






# Rehabilitation Act




Affirmative Hiring –

- It **is** legal for federal agencies to give an advantage to individuals with disabilities in hiring, promotion, or other employment decisions.
- An agency is allowed to indicate in a job announcement that it is seeking to recruit or hire individuals with disabilities who are qualified.
- Agencies should affirmatively recruit individuals with disabilities to apply for vacancies, to increase the number of individuals with disabilities in agency applicant pools.




# Executive Order 13548

***Increasing Federal Employment of Individuals With Disabilities, July 26, 2010***




- Reaffirmed Executive Order 13163
  - Federal government to hire 100,000 IWD over five years
- Requires agencies:
  - To develop hiring, retention, and training plans
    - Establish goals for IWD and sub-goals individuals with targeted disabilities
    - Training – emphasis on supervisors and HR professionals
  - To increase use of Schedule A appointing authority
  - To improve return to work outcomes/retention
  - To ensure accessibility of virtual and physical workspaces
  - To evaluate their reasonable accommodation procedures
  - To designate a senior level official responsible for implementation (accountability)
- Agency performance to be made available (transparency)






# Best Practices – Hiring











# Schedule A Hiring Authority




## Two subparts that relate to employing people with disabilities:

- Schedule A, 5 CFR 213.3102(u)
  - For hiring people with severe physical disabilities, psychiatric disabilities, and intellectual disabilities.
- Schedule A, 5 CFR 213.3102(ii)
  - For hiring readers, interpreters, and personal assistants.






# Schedule A Hiring Authority




## Hiring authority to appoint persons with disabilities:

- "… intellectual disabilities, severe physical disabilities, or psychiatric disabilities."
  5 CFR 213.3102 (u)
- Non-competitively appoint and convert
- Two-year trial/probationary period mandatory
- Permanent, temporary, or time-limited appointments
- No posting required – if posted, qualified applicants are referred
- Exception to the Priority Placement Program (PPP)




# Schedule A Hiring Authority




- Require proof of disability
- Documentation van be provided by any of the following:
  - Licensed medical professional
  - Licensed vocational rehabilitation specialist
  - Any federal, state / D.C., or U.S. territory agencies that provide disability benefits






# Improve Schedule A Hiring Process




- Require hiring officials to review Schedule A certificate lists prior to filling any vacancy.
- Communicate process rules to applicants.
- Develop guidelines for federal HR community.
- Require agency Human Resource Office to monitor the conversion rate of Schedule A temps & terms to permanent positions and to timely advise supervisors of this option.






# Schedule A Hiring Authority




- Selective Placement Program Coordinator can refer qualified candidates quickly and efficiently
- Schedule A can be used to promote current employees with disabilities
- Internal resources should be developed for referring qualified candidates
- Have a referral process in place






# Schedule A Hiring Authority




**Flexibility and ease of use:**

- Cut hiring process from 4-12 months down to weeks.
- Use in conjunction with other programs/services
- When encouraging managers to hire via Schedule A, it will go along way to have a pool of talented, pre-qualified candidates available for referral.






# Schedule A Resources




OPM training:

- Roadmap to Success and Selective Placement Program Coordinator training http://hru.gov/Course
- ABC's of Schedule http://www.eeoc.gov/eeoc/publications/abc_ada_program_manager.cfm
- OPM Shared List of People with Disabilities https://max.omb.gov/community/dashboard.action
- Workforce Recruitment Program https://wrp/gov






# Best Practices - Retention











# Say "Yes" to Reasonable Accommodation




- Develop written reasonable accommodation procedures in accordance with Executive Order 13164.
- The Rehabilitation Act states reasonable accommodations must be made available for:
  - The application process
  - Performing essential functions of the job
  - Benefits and privileges of employment






# Say "Yes" to Reasonable Accommodation




- Benefits and privileges of employment include, but are not limited to, employer-sponsored:
  - Training,
  - Services (e.g., employee assistance programs (EAP's), credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation), and
  - Parties or other social functions (e.g., parties to celebrate retirements and birthdays, and company outings).
- It's about equal access
  - All federal agency programs, training, events, and any other activities must be fully accessible to all employees and any guests

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# Say “Yes” to Reasonable Accommodation




- It’s about equal access
  - All federal agency programs, training, events, and any other activities must be fully accessible to all employees and any guests.
  - Assistant Secretary of Defense Memo



ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

READINESS AND FORCE MANAGEMENT

JUN 0 3 2013

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Access for Individuals with Disabilities to Department of Defense Group Events

The Department of Defense (DoD) has a duty under the Rehabilitation Act of 1973, as amended (“Rehabilitation Act”), 29 U.S.C. §791, to provide accessibility to meetings and other gatherings, referred to in this memorandum as “group events,” for qualified individuals with disabilities. In addition, if a group event must be attended by government employees in the course of their employment, there is a duty to reasonably accommodate employees with disabilities under Section 501 of the Rehabilitation Act, 29 U.S.C. §791. This memorandum is a reminder of current DoD policy, as implemented by DoD Directive 1020.1, “Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense,” and other relevant regulations.

These requirements apply to a variety of group events, both internal and open to the public, including staff meetings, informational presentations, awards ceremonies, holiday commemorations, retirement ceremonies, and training events as well as video broadcasts and recordings of such events. Commonly requested accommodations for individuals with disabilities at such events include sign language interpretation, Communication Access Realtime Translation (CART, also known as real-time captioning), assistive listening devices, and access to electronic documents that are compliant with Section 508 of the Rehabilitation Act, 29 U.S.C. §794d.

Attached is a document providing details of good practices for DoD Components sponsoring, initiating or facilitating group events. Following these practices will help ensure that DoD group events are fully accessible. Please disseminate this information throughout your Component. Questions about this memorandum should be directed to Mr. Stephen M. King, Director of Disability Programs, Office of Diversity Management and Equal Opportunity at 703-571-9327, or via e-mail to Stephen.King@osd.mil.

F. E. Vollrath

tachments:
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# Say "Yes" to Reasonable Accommodation




- Institutionalize centralized funding for reasonable accommodations throughout your agency.
- Recommendation of E. O. 13548
- Endorsed by EEOC






# Best Practice - Advancement











# Improve Mentoring




- Develop a mentoring program specifically targeted to IwTDs.
  - Legally permissible to have an IwTD-only program (unlike for race or sex).
- Discuss career expectations with each employee with a disability;
- Evaluate the employee's interests, talents, and skills, and develop appropriate goals;
- Encourage lateral movements, job rotations, and team assignments that will give employees problem-solving skills and leadership opportunities.






# Make Disability Part of Your Diversity Initiatives




- Include disability as a visible part of diversity initiatives:
  - Incorporate into Senior Leader diversity talking points and memos;
  - Incorporate into Public Affairs diversity plans;
  - Add to all Diversity and Inclusion initiatives.






# Accountability




- Require managers and supervisors to demonstrate their support of agency’s goals to increase recruitment, hiring, advancement, and retention of IwDs/IwTDs by:
  - Participating in the Workforce Recruitment Program (WRP) – internships for students with disabilities;
  - Supporting the local disability ERG;
  - Approving training for IwDs;
  - Providing needed accommodations.
  - Including as part of performance objectives






# Using Barrier Analysis in the Disability Program




- A process that examines relevant data, trends and benchmarks to identify a policy, practice or procedure that limits or tends to limit employment opportunities.
- Must be focused, methodical, and involve participation of all relevant agency officials and stakeholders.
- Barrier analysis is an integral tool used in assessing an agency's EEO program via the EEOC MD-715.






# Barrier Analysis Process




- Step 1: Identify triggers (i.e. low IwD participation rate) using a variety of data sources
  - i.e. policies and procedures, workforce data
- Step 2: Investigate to pinpoint barriers to employment and causes
  - i.e. limited use of Schedule A(u) hiring authority, accessibility issues
- Step 3: Eliminate barriers
  - Part J of MD-715 (plans)
- Step 4: Assess success of plan
  - Part J of MD-715 (accomplishments)






# Barrier Analysis Take Aways




- This is about real people and circumstances, not just numbers
- Process is ongoing; does not follow a reporting cycle
- Requires following the “trail” that is uncovered and this could mean years of dedicated effort
- Purpose of EEO plans is not to fulfill a reporting requirement, and is not about parity.
- Purpose is to:
  - Eliminate barriers to equal opportunity
  - Ensure a more inclusive work environment

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# Questions?




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